XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

34

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. (C) NO. 480/2006

APPELLANT NON-APPLICANT NO.2 : Amrit Lal Patel, Son of Shri Jagdish Prasad, aged about 51 years, Occupation-Vehicle Owner, Resident of Village Amaldiha, Tahsil and District Raigarh (C.G.)

VERSUS

RESPONDENTS CLAIMANT :

1. Vijay Shankar Choudhary, Son of Shri Gajanan Prasad Choudhary, aged about 47 years, Occupation-Agriculture and Dairy Business, Resident of Village Tarkela, Tahsil and District Raigarh (C.G.)

NON-APPLICANT NO. 1

2. Chandan Kumar Patel, Son of Shri Amrit Lal Patel, aged about 25 years, Occupation-Vehicle Driver and Agriculture, Resident of Village Amaldiha, Tahsil and District Raigarh (C.G.)

Present:

Ms. Soniya Thakur, counsel for the appellant.
Mr. H.S.Patel, counsel for the respondent No.1.

ORAL JUDGMENT

(20th July 2007)

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 2	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Dhirendra Mishra, J

The appellant, owner of the offending tractor No. M.P. 26-E-0520, has preferred this appeal against the award dated 13th April 2006 passed in Motor Claim Case No. 39/2004 whereby learned I Additional Motor Accident Claims Tribunal, Raigarh has awarded a sum of Rs.59,500/- to respondent No.1/claimant towards the injuries sustained by him in a motor vehicle accident dated 28th November 2003 involving offending tractor of the appellant and the jeep owned by respondent No. 1.

The only ground urged by learned counsel for the appellant in the present appeal is that it is a case of collusion between a jeep and a tractor, however, registered owner of the jeep has not been arrayed as a party and the fact that there was a contributory negligence on the part of driver of the jeep, has not been considered while disposing of the claim petition. Learned counsel for the appellant referring to the statement of non-applicant witness No.3 Dilip Patel, argued that on the date of incident the jeep being driven rashly and negligently dashed with tractor of the appellant, went inside the agricultural field and dashed against the boundary ~~wall~~ of the field. However, the evidence of this witness has been ignored.

P.T.O.

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 3	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

On the other hand, learned counsel for respondent No.1/claimant submits that there is no pleadings of the appellant in reply to the claim petition that driver of the jeep was driving the jeep rashly and negligently, whereas there is documentary evidence available on record that driver of the tractor was prosecuted for rash and negligent driving and in the said prosecution, the driver had admitted commission of the offence and no compliant was lodged by the appellant or driver of the tractor against the driver of the jeep and considering all these aspects in paragraph-8 of the impugned award, learned claims Tribunal has not accepted versions of the appellant and driver of the jeep.

I have heard learned counsel for the parties and perused the impugned award as also the oral and documentary evidence available on record.

From perusal of pleadings of the respective parties and the documents available on record, it is evident that driver of the offending tractor owned by the present appellant was prosecuted for rash and negligent driver. Further that there is no pleading by the appellant in reply to the claim petition that jeep was in fact being driven rashly and negligently and considering all these aspects, learned Tribunal has not

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आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	accepted defence of the present appellant and passed the impugned award, which does not call for interference. In the result, the appeal being devoid of substance is liable to be dismissed and is hereby dismissed. **Sd/-** **Dhirendra Mishra** **Judge**	

P.T.O.